

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Initially, the Applicant would like to thank the Examiner for the indication that claims 22 and 31 are allowed.

However, in the Official Action, the Examiner rejects claims 36 and 38 under 35 U.S.C. § 102(b) as being anticipated by JP1989-172813 to Kenichiro et al., (hereinafter "Kenichiro"). Additionally, the Examiner rejects claims 37 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Kenichiro in view of U.S. Patent No. 6,264,664 to Avellanet (hereinafter "Avellanet").

With regard to independent claims 36 and 38, the Examiner argues that Kenichiro discloses all of the features thereof. Specifically, the Examiner cites Figure 4 of Kenichiro, arguing that the gap formed between the fixing member 17 and sheath 1 is "a groove."

The gap as argued by the Examiner is formed between the sheath 1 having a shape of a hollow cylinder and the fixing member 17 also having a shape of a hollow cylinder but its inner diameter being a little larger than the outer diameter of the sheath 1. Thus, the gap space necessarily has a shape of "a ring" or "a tube." Therefore, the gap of Kenichiro has no function to keep a filament in a predetermined position and direction. When the filament of Kenichiro is fixed by inserting the tip of sheath 1 into the fixing member 17, the filament may freely move during the fixing operation, forcing an operator to perform trial-and-error procedures several times.

In stark contrast, the groove as recited in claims 36 and 38 has an elongated shape along the direction of a filament and in which the filament fits. Therefore, the operator

can use the groove as a guide for fixing the filament to keep it in a predetermined position and direction. This feature greatly facilitates assembly operations. Claims 36 and 38 have been amended to clarify such features. The amendment to claims 36 and 38 are fully supported in the original disclosure, including the Figures. Thus, no new matter has been entered into the disclosure by way of the amendment to claims 36 and 38.

With regard to the rejection of claims 36 and 38 under 35 U.S.C. § 102(b), a medical retrieval instrument having the features discussed above and as recited in independent claims 36 and 38, is nowhere disclosed in Kenichiro. Since it has been decided that “anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,”¹ independent claims 36 and 38 are not anticipated by Kenichiro. Accordingly, independent claims 36 and 38 patentably distinguish over Kenichiro and are allowable. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 36 and 38 under 35 U.S.C. § 102(b).

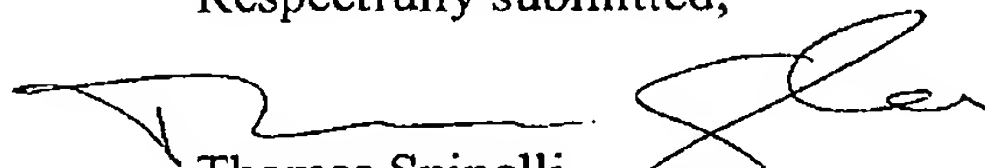
With regard to claims 37 and 39, since independent claims 36 and 38 patentably distinguish over the prior art and are allowable, claims 37 and 39 are allowable therewith at least because they depend from an allowable base claim.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone

¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

conference with Applicants' attorneys would be advantageous to the disposition of this case,
the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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